



## **DEPARTMENT OF ENERGY**

### **Federal Energy Regulatory Commission**

**[Project No. 15331-000]**

#### **Marlow Hydro, LLC; Notice of Intent to File License Application and Setting Deadline to File Final License Application**

- a. Type of Filing: Notice of Intent to File a License Application and Setting a Deadline to File a Final License Application.
- b. Project No.: 15331-000.
- c. Date Filed: June 20, 2023.
- d. Submitted By: Marlow Hydro, LLC. (Marlow Hydro).
- e. Name of Project: Nash Mill Dam Hydroelectric Project (Nash Mill Project).
- f. Location: On the Ashuelot River, near the town of Marlow, Cheshire County, New Hampshire.
- g. Filed Pursuant to: 18 CFR 5.5 and 385.216 of the Commission's regulations. Marlow Hydro filed a request to withdraw its surrender application on June 20, 2023.<sup>1</sup> The request is being treated as a Notice of Intent to File an Original License Application, which would have been filed pursuant to 18 CFR 5.5 of the Commission's regulations.

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<sup>1</sup> Marlow Hydro filed a notice of intent to file a subsequent license application on October 17, 2017, and a license application on December 1, 2020. On May 5, 2021, Marlow Hydro filed to withdraw the application and on June 17, 2022, to surrender the license. On June 20, 2023, Marlow Hydro requested to withdraw its surrender application and return to a licensing process. The withdrawal of the surrender became effective on July 5, 2023, pursuant to 18 CFR 385.216.

- h. Potential Applicant Contact: Anthony B. Rosario, 139 Henniker Street, Hillsborough, NH 03244; (603) 494-1854; or e-mail at [t-iem@tds.net](mailto:t-iem@tds.net).
- i. FERC Contact: Prabha Madduri at (202) 502-8017; or by e-mail at [prabharanjani.madduri@ferc.gov](mailto:prabharanjani.madduri@ferc.gov).
- j. On December 6, 2023, Commission staff issued a letter providing Marlow Hydro with details regarding the process for filing a license application for the Nash Mill Project. As stated above, on June 20, 2023, Marlow Hydro filed a notice of withdrawal of a surrender application for the Nash Mill Project and a request to return to a licensing process. The request to reinstate the subsequent licensing proceeding was denied. Staff determined, however, (1) that the pre-filing work (Pre-Application Document request, and approval, to use the TLP, and Joint Agency Meeting) performed by Marlow Hydro satisfies the requirements of 18 CFR 4.38(b) for first stage consultation; (2) that Marlow Hydro should proceed with second stage consultation; and (3) that the June 20, 2023 notice of withdrawal of the surrender application should serve as a notice of intent to file an original license application for the Nash Mill Project (see paragraph g).
- k. There typically is no filing deadline for an original license application. However, Marlow Hydro is currently operating the project under section 18 CFR 16.21(a) of the Commission's regulations authorizing it to operate the project until the Commission acts on its application (see the *Notice of Authorization for Continued Project Operation* issued on December 22, 2022). Thus, to ensure that Marlow Hydro files a timely application for

the Commission to act on, establishing a deadline for Marlow Hydro's original license application is warranted. Staff has determined that it is reasonable to expect second stage consultation and a final license application to be completed by the end of July of 2024. Therefore, the final license application for this project is due by July 31, 2024.

- l. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the New Hampshire Division of Historical Resources, as required by section 106 of the National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.
- m. With this notice, we are designating Marlow Hydro, LLC as the Commission's non-Federal representative for carrying out informal consultation pursuant to section 106 of the National Historic Preservation Act.
- n. A copy of the draft application may be viewed on the Commission's website (<http://www.ferc.gov>), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at

ferconlinesupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY).

- o. The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members, and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or [OPP@ferc.gov](mailto:OPP@ferc.gov).
- p. Register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: February 6, 2024.

**Debbie-Anne A. Reese,**

*Acting Secretary.*